

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY, and
JEREMY KEEL, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF
SETTLEMENTS WITH BROKERAGES AND NON-REALTOR MULTIPLE
LISTING SERVICES OPTING INTO THE
NATIONAL ASSOCIATION OF REALTORS SETTLEMENT AND
FOR PERMISSIVE JOINDER OF OPT-IN ENTITIES**

This Court granted Plaintiffs' motion for preliminary approval of the National Association of Realtors ("NAR") Settlement on April 23, 2024, Doc. 1460. As previously described to the Court and reflected in Plaintiffs' Class Notice, the NAR Settlement includes mechanisms for certain non-Realtor Multiple Listing Services ("MLSs") and brokerages to "opt in" to the NAR Settlement and obtain a release on the condition that they agree to, among other things: (i) make additional monetary payments into the Settlement Fund, (ii) make certain practice changes, and (iii) provide cooperation in certain ongoing litigation. In addition, the NAR Settlement includes a mechanism for certain Realtor MLSs to "opt in" to the NAR Settlement and obtain a release on

the condition that they agree, among other things, to make certain practice changes, and provide cooperation in certain ongoing litigation.

Fifteen non-Realtors MLSs have thus far agreed to opt into the NAR Settlement, including by agreeing to practice changes and to pay a total of over \$6 million in additional compensation to the Settlement Class.

Alaska MLS	\$238,800
BAREIS	\$736,800
Central Virginia Regional MLS	\$100,000
MetroList	\$2,280,100
Minot MLS	\$26,300
MiRealSource	\$100,000
MLS Exchange	\$361,300
Real Estate Information Network (“REIN”)	\$934,100
Richmond MLS	\$15,700
SE Alaska MLS	\$19,000
Southeast Georgia MLS	\$16,800
Spanish Peaks MLS	\$15,700
UNYREIS	\$250,000
West Penn Multi-List	\$895,000
WNYREIS	\$250,000
TOTAL	\$6,239,600

Thirteen real estate brokerages have thus far agreed to “opt in” to the NAR Settlement, including by agreeing to pay an additional \$24 million in additional compensation to the Settlement Class.

Fathom Holdings, Inc.	\$2,950,000
Key Realty, Ltd.	\$375,000
Michael Saunders & Company	\$1,200,000
Pinnacle Estate Properties, Inc.	\$725,000
Rose & Womble Realty Company	\$100,000
Brown Harris Stevens	\$2,900,000
Shorewest Realtors, Inc.	\$6,923,153.89
Silvercreek Realty Group	\$350,000
The Agency	\$3,750,000
Vanguard	\$2,000,000

Watson Realty Corp.	\$1,350,000
McGraw Davisson Stewart LLC	\$800,000
Downing-Frye Realty, Inc.	\$925,000
TOTAL	\$24,348,154

Together, these “opting in” MLSs and brokerages have agreed to pay an additional \$30,587,754 in compensation to the Class—creating, in connection with the NAR Settlement, a total monetary settlement fund of at least \$448,587,754 plus certain interest for the benefit of the Class. Each opt-in entity either paid the amount reflected in the NAR Settlement agreement formula (*see* NAR Settlement Agreement, at Appx C and Appx D) or an amount that was reached after a review of the entity’s internal financial statements and arms-length negotiations.

Although the Court previously preliminarily approved the NAR Settlement and the procedure outlined above, out of an abundance of caution, Plaintiffs request that: (1) the Court permit the opting-in non-Realtor MLSs and opting-in brokers to join the case for the limited purpose of participating in the Settlement and approval process; and (2) the Court reaffirm the preliminary approval of these “opt in” Settlements. Plaintiffs incorporate by reference their motion for preliminary approval of the NAR Settlement (Doc. 1458) and the Court’s order granting that motion (Doc. 1460).

Permissive joinder is appropriate here. *See* FRCP 20(a)(2). Joinder under Rule 20(a)(2) is appropriate if: (1) “any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences”; and (2) “any question of law or fact common to all defendants will arise in the action.” The decision on permissive joinder is within the court’s discretion. *Brown v. Adams & Assocs., Inc.*, No. 4:19-CV-01864-SRC, 2020 WL 2308458, at *2 (E.D. Mo. May 8, 2020); *see also Mosley v. Gen. Motors Corp.*, 497 F.2d 1330, 1332–33 (8th Cir. 1974) (“the impulse is toward

entertaining the broadest possible scope of action consistent with fairness to the parties; joinder of claims, parties and remedies is strongly encouraged.”).

Both prongs are satisfied here because Plaintiffs’ allegations involve allegations of a nationwide conspiracy and a resulting series of anticompetitive transactions. The allegations made by plaintiffs in various actions share numerous common questions of law and fact with the existing action, including because they allegedly involve the same or similar conduct at issue in the underlying action, and are directly related to approval of the NAR Settlement. In addition, permitting the opting-in MLSs and brokerages to join will not delay the proceedings or otherwise prejudice the adjudication of the main case. To the contrary, joinder provides an efficient mechanism for opt-in brokers and non-Realtor MLSs to participate in the settlement (including by making additional payments to the Settlement Class) and, in exchange, obtain a release under the NAR Settlement on the same timeline as the remainder of the NAR Settlement.

The NAR Settlement’s “Opt-in” procedure was previously disclosed to the class. For instance, the NAR Settlement Class Notice reflects that these “opt in Settlements” are part of the NAR Settlement and will be made available for review by Class Members on the settlement website:

NAR has agreed to pay \$418,000,000 into a settlement fund. The current value of all settlements with NAR and other Defendants is over \$980 million. In addition, certain (a) REALTOR® MLSs, (b) non-REALTOR® MLSs, and (c) real estate brokerages with a REALTOR® Principal that together with their affiliates have over \$2 billion in total sales volume, have agreed to “opt in” and make payments under this Settlement. Those entities (and the amounts they are paying, if anything) will be reflected on the settlement website: www.RealEstateCommissionLitigation.com.¹

¹ See <https://www.realestatecommissionlitigation.com/admin/api/connectedapps.cms.extensions/asset?id=722069c7-72dc-4993-9879-cf5d707da8a5&languageId=1033&inline=true>; see also Doc. 1521 (granting form of notice including notice of opt in settlements).

Consistent with the NAR Settlement Class Notice, a list of all opting-in brokerages and MLSs is reflected on the settlement website. In addition, each settlement agreement with an opting brokerage or non-Realtor MLS has been posted to the settlement website and is available for class members to review.² As such, the Class has been provided with adequate notice of the opt-in Settlements and of their rights to exclude themselves or to object to the opt-in Settlements. Accordingly, Plaintiffs request that final approval of the opt-in Settlements be addressed at the November 26, 2024 hearing on final approval previously set for the NAR Settlement.

The opt-in non-Realtor MLSs and opt-in brokers listed herein have been provided this motion and have not indicated an objection. Further, each has consented to the jurisdiction of this Court for the limited purpose of approving and enforcing the opt-in settlement agreements.

CONCLUSION

For the foregoing reasons, Plaintiffs request the Court grant this motion for preliminary approval, permit the entities listed herein to join for the limited purpose of approving and enforcing these settlement agreements, and order that final approval of the opt-in Settlements be addressed at the November 26, 2024 hearing on final approval previously set for the NAR Settlement.

² See <https://www.realestatecommissionlitigation.com/nar-opt-in>.

September 30, 2024

Respectfully Submitted,

/s/ Robert A. Braun

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